

REMARKS

The Office Action of August 19, 2008, has been carefully reviewed, and in view of the above amendments and the following remarks, reconsideration and allowance of the pending claims are respectfully requested.

In the above Office Action, claims 1-15 were rejected under 35 U.S.C. § 102(b) as being anticipated by Bayer (WO 03/000139 A). For at least the following reasons, Applicant respectfully traverses these rejections.

Independent claim 1 is directed to an endoscopic apparatus for dissecting a desired blood vessel. The apparatus includes an endoscopic barrel including at least two lumens, a handle disposed at a proximal end of the endoscopic barrel, and at least two fingers disposed within the endoscopic barrel for dissecting and cauterizing the desired blood vessel. As amended above, claim 1 further recites that said fingers have a hook-shaped configuration. A further aspect of the invention defined in claim 1 includes a displaceable cone portion disposed over a distal end of said endoscopic barrel, wherein the cone portion has a first position concealing the at least two fingers and a second, extended position exposing the at least two fingers. As amended above, claim 1 further defines said at least two fingers as being rotatable and each of said at least two fingers being independently extendable in a longitudinal direction.

As described in the specification, the hooked-shaped configuration of the fingers, in combination with the rotational and longitudinal movement of the fingers, allows them to be used in removing connective tissue from the blood vessel. Further, as recited in claim 3, the hooked-shaped fingers include distal curved ends, wherein a size and radius of curvature of the curved ends are compatible with one of

said lumens, thus allowing the fingers to be compactly arranged about the endoscopic lens. In addition, the ability to independently move one finger longitudinally relative to the other allows a predefined distance to be formed between the two fingers such that a blood vessel may be received therein. Once disposed between the spaced apart fingers, the fingers can be brought back into alignment for severing and cauterizing the trapped blood vessel.

Bayer, upon which the Examiner relies in rejecting claim 1, discloses a tip 100 which must be extended and/or rotated relative to the endoscopic barrel in order to permit ligating instrument 132 to access the vessel 210. Ligating instrument 132 is axially extendable from the lumen by movement of handles 136 and 138. The jaw members 134a, 134b appear to be relatively straight arms which may be moved laterally relative to one another by "squeezing" the handles 136 and 138 together, thereby applying electrosurgical energy between the jaws to ligate the vessel.

Contrary to the claimed invention, jaw members 134a, 134b do not define fingers having a hook-shaped configuration. Still further, jaw members 134a, 134b cannot be independently extendable in a longitudinal direction so as to define a space therebetween for receiving the desired blood vessel. Accordingly, Applicant respectfully contends that Claim 1 is not anticipated by Bayer.

The jaw members 134a, 134b also do not have a size and radius of curvature compatible with one of the lumens which would allow the jaw members to be compactly arranged about the endoscopic lens. Hence, Applicant submits that claim 3 is not anticipated by Bayer.

The remaining dependent claims define additional distinguishing aspects of the claimed subject matter at issue. As these dependent claims are allowable at

least by virtue of their dependence from allowable independent claim 1, a detailed discussion of the dependent claims is not set forth at this time.

CONCLUSION

In view of the above amendments and remarks, Applicant respectfully submits that the claims of the present application are now in condition for allowance, and an early indication of the same is earnestly solicited.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference would be helpful in resolving any remaining issues pertaining to this application; the Examiner is kindly invited to call the undersigned counsel for Applicant regarding the same.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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By:



Wendi L. Weinstein
Registration No. 34456

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620